

bill as it was originally intended provided patients the means they needed to protect their right to quality care.

Unfortunately, with the adoption of Representative NORWOOD's amendment, the Bipartisan Patient Protection Act was stripped of its provisions allowing patients to sue their HMOs for the unfair denial of needed health care. Patients will now find themselves in an even more hostile and unresponsive environment.

It is for this reason that I must regrettably rise in opposition to the Bipartisan Patient Protection Act as amended by Representative CHARLES NORWOOD. I can only hope that the changes made to the Bipartisan Patient Protection Act can be revisited in conference.

Mr. GILMAN. Mr. Chairman, I rise today in support of H.R. 2563, the Bipartisan Patient Protection Act of 2001, otherwise known as the Ganske-Dingell-Norwood bill. Over the past 6 years, I have worked with my colleagues, Dr. GANSKE, Mr. DINGELL and Dr. NORWOOD, on trying to bring a comprehensive, bipartisan patient protection bill to the floor, and I believe that H.R. 2563 is this bill.

The Ganske-Dingell bill will provide individuals with managed care insurance plans, with an unprecedented amount of protections, including: the right to choose their own doctor, access to specialists, gag clause protections, information disclosure and access to emergency services. Moreover, the passage of this bill will mark the first time that patients throughout the nation will have the ability to hold their HMOs accountable for injuries or deaths which result from denials or delays of claims by the HMO.

H.R. 2563, has the support of over 800 organizations, including the American Medical Association, American Cancer Society, American Heart Association, National Breast Cancer Coalition, Patient Access to Responsible Care and National Health Association. These organizations recognize that the Ganske-Dingell bill is going to provide the necessary protections against abuses by the managed care industry.

I applaud the efforts of Representatives GANSKE, DINGELL, NORWOOD and BERRY for bring this important measure to the floor and for their dedication to this issue through the years.

Moreover, I commend Dr. NORWOOD for his continued commitment to ensuring that a Patients' Bill of Rights passes the House and has the opportunity to receive full and fair consideration by the Congress and the President. I understand that he has given his best efforts to negotiate a sound amendment which will have the opportunity to be reviewed and reconsidered in the legislative process.

Having said that, I do have concerns with the amendment introduced by Representative NORWOOD.

Foremost, the Norwood amendment fails to hold health plans accountable by the same standards that apply to physicians for negligent medical decisions. Rather than defer to state statutory law and hundreds of years of common law, the Norwood amendment would create a new status of health plans that injure or kill patients by their negligent treatment decisions. All actions against health plans would be determined exclusively under a new federal law while doctors and hospitals would be subject to less stringent state laws.

Additionally, the Norwood amendment includes a provision that grants health plans a

"rebuttable presumption" in court when the external review panel has found in their favor. A patient would now be forced to prove that the decision of the external review panel was unreasonable, rather than only providing that the HMO was responsible for serious injury or death.

The most difficult portion of the Norwood amendment is that it strips the states of the rights they currently enjoy. It fails to recognize those states that already have external review systems and not allowing them to remain in place. Under Ganske-Dingell, states that already have a substantially similar, if not superior external review system in place, would be able to continue overseeing these systems. Ganske-Dingell sets a federal standard and allows states to provide additional protections if they choose to, while the Norwood amendment mandates a federal cap which prohibits states from providing additional protections.

States like New York, which currently has a superior external review process compared to the regulations outlined in Norwood, would be forced to follow an inferior external review system.

I hoped to come to the floor today to support a bipartisan proposal that had the full backing of all 4 sponsors of H.R. 2563, the House leadership and the White House.

Unfortunately, we have come to a cross roads. Our sponsors are in disagreement, the President has pledged, for his reasons, to veto the Ganske-Dingell-Norwood bill in its present form, the Minority has begun to politicize this issue to the detriment of real reform, and we are now forced to make a decision between passing a Patient's Bill of Rights or passing up the opportunity to allow myself, Dr. GANSKE, Dr. NORWOOD, Mr. DINGELL, Mr. BERRY and other Members of Congress to pressure the Senate and the White House in conference to remedy those provisions which weaken this measure.

In light of this unfortunate situation, I will not kill our opportunity to continue our work on behalf of patient's throughout our nation and pass a bi-partisan Patient's Bill of Rights.

I call on my colleagues, the Senate, and the President to recognize that this is an unfinished work and I look forward to working with all concerned so that after five long years we can finally complete this important measure.

Mr. ROSS. Mr. Chairman we need a real Patients Bill of Rights—one that truly takes the medical decisions out of the hands of the big health insurance company bureaucrats and the big HMOs and puts them back where they belong with physicians, nurses, and patients; one that allows patients to hold their HMOs accountable when they make bad medical decisions. That's what our constituents are asking for. That's what the Ganske-Dingell-Berry bill would do.

I'm sick and tired of the scare tactics the big health insurance companies and the big HMOs have been using with our small business owners. I own a small business with 15 employees back home. We provide health insurance to our employees. And I can tell you, the scare tactics that these HMOs are putting out in regard to increased premiums and potential lawsuits are simply that—scare tactics.

The state of Texas has this law on the books, and it is working. It's making the big HMOs accountable to their patients on the front end, and that is why there have only been 17 lawsuits filed in the state of Texas—

a very large state—since the law was enacted in 1997.

The Norwood Compromise overrides states like Texas who already have patient protection laws on their books. It rolls back patient protections and shields HMOs from the consequences of their own bad medical decisions, unlike doctors and hospitals, who will be left to defend themselves.

This is not a patient bill of rights. This is an HMO and health insurance companies' bill of rights. Mr. Chairman, I urge my colleagues to reject this legislation written by the big HMOs for the big HMOs. I urge my colleagues to vote against final passage of this measure.

Mr. UDALL of Colorado. Mr. Chairman, since being elected to Congress, I have worked hard for a meaningful Patient's Bill of Rights. But I cannot support the White House proposal that was crafted in the wee hours of the night because it favors HMOs over patients.

This proposal is bad for Colorado. Patients will not have the full right to sue their HMO if it unfairly denies them access to critical medical care. And worse yet, the White House proposal overrides strong patients' rights laws already enacted in Colorado. When I served in the Colorado State House, we put in lots of hard work on a bipartisan basis to enact strong, meaningful patient protections. This deal will wipe away those protections with one fell swoop. We should keep our strong state protections in tact and not let the weaker federal laws take precedence.

So Mr. Chairman, I stand with the American Medical Association and the millions of Americans who will be greatly harmed by this legislation. I am disappointed that the Republican Leadership has worked with the White House to strike a deal that is acceptable to the President and unacceptable to patients and doctors. They have hijacked a good bill and filled it with protections for special interests. I hope that the House-Senate conference committee will come up with a bill that reflects the McCain bill that was approved in the Senate earlier this year.

Ms. LEE. Mr. Chairman, I am deeply disappointed in how the Republicans have stripped and completely weakened H.R. 2563, the Bipartisan Ganske-Dingell Patient Protection Act of 2001. This Patient Bill of Rights originally included strong patient protections that would have ensured timely access to high quality health care for the millions of Americans with private health insurance.

This bill was a bipartisan effort to protect our patients but some Republicans decided to add some terrible provisions that protected HMOs over individuals. The original Patients Bill of Rights, the one I supported, would have given individuals more access to emergency medical services, access to specialty care, access to essential medication, access to clinical trials, and direct access to pediatricians as well as Ob-Gyn care. This bill would have also protected the doctor-patient relationships by ensuring health professionals are free to provide information about a patient's medical treatment options.

H.R. 2563 did address the importance of allowing patients to appeal their health plans' decision as well as holding HMOs accountable for their actions. This bill would have established an independent, speedy external review process for patients dissatisfied with the results of the internal review. H.R. 2563 would